

ASSEMBLY BILL

No. 63

Introduced by Assembly Members Cogdill and Garcia

December 5, 2002

An act to add and repeal Sections 17053.18 and 23638 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 63, as introduced, Cogdill. Taxation: irrigation system improvements.

The Personal Income Tax Law and the Bank and Corporation Tax Law authorize various credits and deductions in computing the taxes imposed by those laws.

This bill would provide, under both laws, a credit, for taxable years beginning on or after January 1, 2003, and before January 1, 2008, in an amount equal to 25% of the cost paid or incurred by the taxpayer, not to exceed a specified amount per acre, for the purchase and installation of an irrigation system improvement, as defined, that is used in a business for the production of farm income, and is installed on agricultural land in California that is owned or leased by the taxpayer at the time of installation.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 17053.18 is added to the Revenue and Taxation Code, to read:

17053.18. (a) For each taxable year beginning on or after January 1, 2003, and before January 1, 2008, there shall be allowed as a credit against the “net tax” (as defined by Section 17039) an amount equal to 25 percent of the cost paid or incurred by the taxpayer for the purchase and installation of an irrigation system improvement that is placed in service in this state, is used in a business for the production of farm income, and is installed on land that is owned or leased by the taxpayer at the time of installation. The amount of the credit for any taxable year shall not exceed one hundred fifty dollars (\$150) for each acre (or portion thereof) of land in the parcel on which the irrigation system improvement is installed.

(b) For purposes of this section:

(1) “Irrigation system improvement” means any physical improvement or alteration of real property, or any equipment installed or to be used on real property, that will result in any of the following:

(A) The use of less water on the affected real property in connection with the production of food, fiber, or horticultural products than would have been used to produce the same food, fiber, or horticultural products in the absence thereof.

(B) Greater uniformity of water application on the affected real property in connection with the production of food, fiber, or horticultural products than would have occurred to produce the same food, fiber, or horticultural products in the absence thereof.

(C) Greater precision in the timing or amount of water used on the affected real property in connection with the production of food, fiber, or horticultural products than would have occurred to produce the same food, fiber, or horticultural products in the absence thereof.

(2) “Irrigation system improvement” includes, without limitation, land leveling, laser grading, lining of ditches and canals, installation of pipeline conveyance systems, installation of permanent solid set sprinkler systems, construction of tailwater capture and reuse facilities, construction of storage or regulating reservoirs, conversion from flood irrigation to less water-intensive

1 means of irrigation, installation of drip, microsprinkler, or
2 subsurface drip irrigation systems, the use of on-farm irrigation
3 and drainage system evaluations using mobile laboratories, the
4 implementation of computer and computer software programs
5 which can be used with existing California Irrigation Management
6 Information System data to improve water management through
7 knowledge of crop water budgets and better irrigation scheduling
8 practices, construction of on-farm groundwater recharge sites to
9 improve opportunities for water management during years of
10 abundant surface supply, installation of water measurement
11 equipment, and automation of on-farm irrigation deliveries.

12 (3) A physical improvement, alteration, or equipment shall be
13 deemed to be an irrigation system improvement if it reduces the
14 amount of water actually diverted for use or applied on the affected
15 real property, reduces the amount of water that evaporates or
16 transpires from the crop canopy, reduces the amount of water that
17 would escape from a field whether through leaching, runoff,
18 seepage, or otherwise, if that water would have entered a
19 groundwater or surface water supply unsuitable for crop irrigation,
20 or reduces the amount of water that would otherwise spill from a
21 reservoir, canal, or ditch if the spilled water would enter a water
22 supply not suitable for crop irrigation.

23 (c) (1) No credit shall be allowed under this section unless the
24 physical improvement, alteration, or equipment is certified by a
25 qualified professional as meeting the requirements of subdivision
26 (b).

27 (2) The certification required under this subdivision shall be
28 obtained by the taxpayer no later than the close of the taxable year
29 in which the irrigation system improvement is first placed in
30 service in this state, and shall be retained by the taxpayer and
31 provided to the Franchise Tax Board upon request.

32 (3) For purposes of this subdivision, the term “qualified
33 professional” means a person who is both of the following:

34 (A) Not related (within the meaning of Section 267 or 318 of
35 the Internal Revenue Code) to the taxpayer, manufacturer,
36 distributor, installer, seller, provider, or any other person involved
37 in the purchase or installation of the physical improvement,
38 alteration, or equipment.

39 (B) Either of the following:

1 (i) A civil engineer that is registered pursuant to Section 6730
2 of the Business and Professions Code.

3 (ii) An irrigation specialist certified under the certification
4 program of the Irrigation Association of Falls Church, Virginia.

5 (d) If the taxpayer sells or discontinues leasing the land upon
6 which the irrigation system has been installed, or if the qualified
7 irrigation system improvement is removed from the state, is
8 disposed of to an unrelated party, or ceases to be used in a business
9 for the production of farm income, within one year from the date
10 the qualified irrigation system improvement is first placed in
11 service in this state, then the amount of the credit allowed by this
12 section shall be recaptured by adding that credit amount to the net
13 tax of the qualified taxpayer for the taxable year in which the
14 irrigation system improvement is disposed of, removed, or put to
15 an ineligible use.

16 (e) The basis of any irrigation system improvement for which
17 a credit is taken under this section shall be reduced by the amount
18 of the credit taken.

19 (f) The Franchise Tax Board shall report annually to the
20 Legislature, to the extent data is available, on the utilization of the
21 credit allowed by this section.

22 (g) In the case where the credit allowed by this section exceeds
23 the “net tax,” the excess may be carried over to reduce the “net
24 tax” in the following year, and succeeding six years if necessary,
25 until the credit has been exhausted.

26 (h) This section shall remain in effect only until December 1,
27 2008, and as of that date, is repealed.

28 SEC. 2. Section 23638 is added to the Revenue and Taxation
29 Code, to read:

30 23638. (a) For each taxable year beginning on or after
31 January 1, 2003, and before January 1, 2008, there shall be allowed
32 as a credit against the “tax” (as defined by Section 23036) an
33 amount equal to 25 percent of the cost paid or incurred by the
34 taxpayer for the purchase and installation of an irrigation system
35 improvement that is placed in service in this state, is used in a
36 business for the production of farm income, and is installed on land
37 that is owned or leased by the taxpayer at the time of installation.
38 The amount of the credit for any taxable year shall not exceed one
39 hundred fifty dollars (\$150) for each acre (or portion thereof) of

1 land in the parcel on which the irrigation system improvement is
2 installed.

3 (b) For purposes of this section:

4 (1) “Irrigation system improvement” means any physical
5 improvement or alteration of real property, or any equipment
6 installed or to be used on real property, that will result in any of the
7 following:

8 (A) The use of less water on the affected real property in
9 connection with the production of food, fiber, or horticultural
10 products than would have been used to produce the same food,
11 fiber, or horticultural products in the absence thereof.

12 (B) Greater uniformity of water application on the affected real
13 property in connection with the production of food, fiber, or
14 horticultural products than would have occurred to produce the
15 same food, fiber, or horticultural products in the absence thereof.

16 (C) Greater precision in the timing or amount of water used on
17 the affected real property in connection with the production of
18 food, fiber, or horticultural products than would have occurred to
19 produce the same food, fiber, or horticultural products in the
20 absence thereof.

21 (2) “Irrigation system improvement” includes, without
22 limitation, land leveling, laser grading, lining of ditches and
23 canals, installation of pipeline conveyance systems, installation of
24 permanent solid set sprinkler systems, construction of tailwater
25 capture and reuse facilities, construction of storage or regulating
26 reservoirs, conversion from flood irrigation to less water-intensive
27 means of irrigation, installation of drip, microsprinkler, or
28 subsurface drip irrigation systems, the use of on-farm irrigation
29 and drainage system evaluations using mobile laboratories, the
30 implementation of computer and computer software programs
31 which can be used with existing California Irrigation Management
32 Information System data to improve water management through
33 knowledge of crop water budgets and better irrigation scheduling
34 practices, construction of on-farm groundwater recharge sites to
35 improve opportunities for water management during years of
36 abundant surface supply, installation of water measurement
37 equipment, and automation of on-farm irrigation deliveries.

38 (3) A physical improvement, alteration or equipment shall be
39 deemed to be an irrigation system improvement if it reduces the
40 amount of water actually diverted for use or applied on the affected

1 real property, reduces the amount of water that evaporates or
2 transpires from the crop canopy, reduces the amount of water that
3 would escape from a field whether through leaching, runoff,
4 seepage, or otherwise, if that water would have entered a
5 groundwater or surface water supply unsuitable for crop irrigation,
6 or reduces the amount of water that would otherwise spill from a
7 reservoir, canal, or ditch if the spilled water would enter a water
8 supply not suitable for crop irrigation. A physical improvement,
9 alteration, or equipment is also an irrigation system improvement
10 if it meets the criteria set forth in this section.

11 (c) (1) No credit shall be allowed under this section unless the
12 physical improvement, alteration, or equipment is certified by a
13 qualified professional as meeting the requirements of subdivision
14 (b).

15 (2) The certification required under this subdivision shall be
16 obtained by the taxpayer no later than the close of the taxable year
17 in which the irrigation system improvement is first placed in
18 service in this state, and shall be retained by the taxpayer and
19 provided to the Franchise Tax Board upon request.

20 (3) For purposes of this subdivision, the term “qualified
21 professional” means a person who is both of the following:

22 (A) Not related (within the meaning of Section 267 or 318 of
23 the Internal Revenue Code) to the taxpayer, manufacturer,
24 distributor, installer, seller, provider, or any other person involved
25 in the purchase or installation of the physical improvement,
26 alteration, or equipment.

27 (B) Either of the following:

28 (i) A civil engineer that is registered pursuant to Section 6730
29 of the Business and Professions Code.

30 (ii) An irrigation specialist certified under the certification
31 program of the Irrigation Association of Falls Church, Virginia.

32 (d) If the taxpayer sells or discontinues leasing the land upon
33 which the irrigation system has been installed, or if the qualified
34 irrigation system improvement is removed from the state, is
35 disposed of to an unrelated party, or ceases to be used in a business
36 for the production of farm income, within one year from the date
37 the qualified irrigation system improvement is first placed in
38 service in this state, then the amount of the credit allowed by this
39 section shall be recaptured by adding that credit amount to the net
40 tax of the qualified taxpayer for the taxable year in which the



1 irrigation system improvement is disposed of, removed, or put to
2 an ineligible use.

3 (e) The basis of any irrigation system improvement for which
4 a credit is taken under this section shall be reduced by the amount
5 of the credit taken.

6 (f) The Franchise Tax Board shall report annually to the
7 Legislature, to the extent data is available, on the utilization of the
8 credit allowed by this section.

9 (g) In the case where the credit allowed by this section exceeds
10 the “tax,” the excess may be carried over to reduce the “tax” in
11 the following year, and succeeding six years if necessary, until the
12 credit has been exhausted.

13 (h) This section shall remain in effect only until December 1,
14 2008, and as of that date, is repealed.

15 SEC. 3. This act provides for a tax levy within the meaning of
16 Article IV of the Constitution and shall go into immediate effect.

